

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**Criminal Action No. 1:06cr80-1  
(Maxwell)**

**TYRONE A. LEWIS,  
a/k/a "New York" a/k/a "Ty,"**

**Defendant.**

**ORDER**

It will be recalled that the Defendant, Tyrone A. Lewis, was one of two defendants named in a seven-count superseding indictment, which indictment was returned in the United States District Court for the Northern District of West Virginia at the Clarksburg point of holding Court on March 6, 2007. On May 23, 2007, Defendant Tyrone A. Lewis entered a plea of guilty before Magistrate Judge John S. Kaull to Count Three of the Superseding Indictment. Also on May 23, 2007, the plea agreement entered into by the Defendant and a Waiver of Article III Judge and Consent to Enter a Guilty Plea Before U.S. Magistrate Judge were filed with the Court. On May 25, 2005, Magistrate Judge Kaull filed with the Court his Report and Recommendation regarding the May 23, 2007 change of plea proceedings, wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. On May 29, 2007, the Government filed a response to the Magistrate's Report and Recommendation stating that it has no objections. No objections or other responses have been received.

Upon examination of the Report and Recommendation from the Magistrate Judge, the Plea Agreement filed with the Court, and the Waiver of Article III Judge and Consent filed with the Court, it appears to the Court that all matters raised and suggested by Magistrate Judge Kaul in his Report and Recommendation are appropriate. The Court further finds, based upon its review, that a factual basis existed for said plea, that the plea was made freely and voluntarily, and that the Defendant understood the nature of the charges and the consequences of his plea of guilty before the Magistrate Judge. Therefore, it is hereby

**ORDERED** that the Magistrate Judge's Report and Recommendation shall be, and the same hereby is, accepted in whole, adopted by this Court, and incorporated herein. It is further

**ORDERED** that, based upon the aforementioned findings, the Defendant's plea of guilty to Count Three of the Indictment shall be, and the same hereby is accepted. The Court hereby finds the Defendant **GUILTY** as charged in Count Three of the Superseding Indictment in the above-styled criminal action. It is further

**ORDERED** that acceptance of the plea agreement, any stipulations contained in the Plea Agreement, and the binding and nonbinding recommendations contained therein shall be, and the same hereby are, deferred until the Court has received and reviewed the Presentence Report, which Magistrate Judge Kaul directed the Probation Officer to prepare in this matter. In this regard, it is further

**ORDERED** that the Government and the Defendant shall provide their Versions of the Offense to the Probation Officer and advise the Probation Officer with regard to any sentencing factors that might require special review on or before **July 11, 2007**.

Based upon the request of the parties and the recommendation of the Magistrate Judge, a sentencing hearing in this matter shall not be conducted prior to November 1, 2007.

The Clerk of the Court is directed to transmit certified copies of this Order to Counsel for the United States, to Counsel for Defendant, and to the Probation Office.

**ENTER:** June 26<sup>th</sup>, 2007

**/s/ Robert E. Maxwell**  
United States District Judge